



SHIRE OF
COCOS
KEELING
ISLANDS

NOTICE OF MEETING

Dear President and Councillors,

I advise that the Ordinary Meeting of Council will be held in Community Resource Centre Meeting Room, West Island on Wednesday, 24 April 2019 commencing at 4.00pm.

Andrea Selvey
Chief Executive Officer

COUNCILLORS PLEASE NOTE:

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations which have not yet been adopted by Council.

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Disclaimer

Members of the public should note that in any discussion regarding any planning or other application that any statement or intimation of approval made by any member or officer of the Shire during the course of any meeting is not intended to be and is not to be taken as notice of approval from the Shire. No action should be taken on any item discussed at a Council meeting prior to written advice on the resolution of the Council being received. Any plans or documents contained in this document may be subject to copyright law provisions (Copyright Act 1968, as amended) and the express permission of the copyright owner(s) should be sought prior to the reproduction.

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1. OPENING/ANNOUNCEMENTS OF VISITORS

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

In accordance with section 5.24(1) (a) of the Local Government Act 1995, time is allocated for questions to be raised by members of the public, as follows:

(1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.

(2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in sub regulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

Pursuant to regulation 7(4) (a) of the Local Government (Administration) Regulations 1996, questions from the public must relate to a matter affecting the local government.

In accordance with section 5.25 (1) (f) of the Local Government Act 1995 and the Local Government (Administration) Regulations 1996 regulation 11(e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question will be included in the minutes of the meeting.

Where a question is taken on notice at the meeting, a summary of the response to the question will be included in the agenda for the following Council meeting.

5. LEAVE OF ABSENCE

The Local Government Act 1995 (Section 2.25) provides that a Council may, by resolution, grant leave of absence to a member for Ordinary Council Meetings. A member who is absent, without first obtaining leave of the Council, throughout three consecutive Ordinary meetings of the Council is disqualified from continuing his or her membership of the Council. Disqualification from membership of the Council for failure to attend Ordinary Meetings of the Council will be avoided so long as the Council grants leave prior to the member being absent. The leave cannot be granted retrospectively. An apology for non-attendance at a meeting is not an application for leave of absence.

5.1 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Councillor	Date of Leave	Approved by Council
NIL		

5.2 APPLICATION FOR LEAVE OF ABSENCE

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

OFFICER RECOMMENDATION

THAT THE MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD ON 27 MARCH 2019 BE CONFIRMED AS A TRUE AND CORRECT RECORD.

8. ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

9. DECLARATION OF INTERESTS

10. REPORT AND RECOMMENDATIONS OF COMMITTEE

10.1 FINANCE

10.1.1 MONTHLY STATEMENT OF FINANCIAL ACTIVITY FOR THE MONTH ENDING 31 MARCH 2019

Report Information

Date: 17 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.1.1 Statement of Financial Activity with accompanying notes 31 March 2019

Authority / Discretion

Definitions

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

OFFICER RECOMMENDATION – ITEM NO 10.1.1

THAT THE FINANCIAL STATEMENTS FOR THE PERIODS 1ST OF JULY 2018 TO 31ST OF MARCH 2019 BE RECEIVED.

Report Purpose

To inform Council of the financial position of the Shire at 31 March 2019 in compliance with the provisions of Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The Monthly Financial Statements for the period 1st July 2018 to 31st March 2019 are presented for consideration.

Comment

The Monthly Financial Report is prepared in accordance with the requirements of the Local Government Act 1995 and Local Government (Financial Management) Regulations.

A statement of Financial Activity with accompanying notes is attached for the periods 1 July 2018 to 31 March 2019.

Policy and Legislative Implications

Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires all Local Governments to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure for the month in question.

Financial Management Regulation 34 also requires this statement to be accompanied by:-

- a. An explanation of the composition of the net current assets, less committal assets and restricted assets;
- b. An explanation of material variances; and
- c. Such supporting information that is relevant to the Local Government

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That the financial statements for the period 1st of July 2018 to 31st March 2019 be received.

10.1.2 SCHEDULE OF ACCOUNTS PAID FOR PERIOD 1 MARCH TO 31 MARCH 2019

Report Information

Date: 11 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Senior Finance Officer
 Island: Shire Wide
 Attachments: 10.1.2 Schedule of accounts paid
 10.1.2 Credit MasterCard

AUTHORITY / DISCRETION

Definitions

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OFFICER RECOMMENDATION – ITEM NO 10.1.2

THAT THE LIST SHOWING ALL ACCOUNTS PAID BETWEEN 1/03/19 TO 31/03/19, INCLUSIVE OF MUNICIPAL CHEQUE NUMBER 11547 TO 11552, EFT 6405 TO EFT 6478 & DIRECT DEBIT SUPERANNUATION: TOTALING \$298,996.82 BE RECEIVED.

Report Purpose

To inform Council of funds disbursed for the period 1st March 2019 – 31st March 2019

Relevant Documents

Available for viewing at the meeting

Nil

Background

A list of accounts paid between 1st and 31st March 2019 is attached.

Comment

The schedule of accounts paid is submitted in accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996.

Policy and Legislative Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Conclusion

That council receives the list stating all accounts paid for March 2019.

10.2 LEASES

10.3 PLANNING/BUILDING

10.3.1 PROPOSED ABLUTION BLOCK – HOME ISLAND PRIMARY SCHOOL

Report Information

Date: 12 April 2019
 Applicant: CareyMC Pty Ltd
 File Ref:
 Location: Lot 1106 Jalan Kipas
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Home Island
 Attachments: 10.3.1 HI Development Application - Reduced
 10.3.1 855-0119-IFC - Home Island - Rev B
 10.3.1 P-001_A
 10.3.1 P-002_A
 10.3.1 P3
 10.3.1 P4

Authority / Discretion

Definition

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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

OFFICER RECOMMENDATION – ITEM NO 10.3.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO THE *SHIRE OF COCOS (KEELING) ISLANDS LOCAL PLANNING SCHEME NO.1*, RESOLVES TO GRANT DEVELOPMENT APPROVAL FOR A PROPOSED ABLUTION BLOCK IN ACCORDANCE WITH THE ATTACHED APPROVED PLANS ON LOT 1106 JIN KIPAS, HOME ISLAND SUBJECT TO THE FOLLOWING CONDITION AND ADVICE NOTES:

1. ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE ATTACHED PLANS DATE STAMPED 17 APRIL 2019 AND SHALL NOT BE ALTERED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE LOCAL GOVERNMENT.

ADVICE NOTES:

1. THE APPLICANT BE ADVISED THIS IS PLANNING APPROVAL ONLY AND NOT A BUILDING PERMIT. A BUILDING PERMIT MUST BE OBTAINED FOR THIS DEVELOPMENT.
2. STORMWATER IS TO BE MANAGED IN ACCORDANCE WITH LOCAL CONDITIONS.
3. IF THE DEVELOPMENT THE SUBJECT OF THIS APPROVAL IS NOT SUBSTANTIALLY COMMENCED WITHIN A PERIOD OF TWO (2) YEARS, THE APPROVAL SHALL LAPSE AND BE OF NO FURTHER EFFECT.
4. WHERE AN APPROVAL HAS SO LAPSED, NO DEVELOPMENT SHALL BE CARRIED OUT WITHOUT THE FURTHER APPROVAL OF THE LOCAL GOVERNMENT HAVING FIRST BEEN SOUGHT AND OBTAINED.
5. THE APPLICANT BE ADVISED THAT “SHOULD YOU BE AGGRIEVED BY THIS DECISION, OR ANY CONDITIONS IMPOSED, THERE IS A RIGHT OF REVIEW UNDER THE *PLANNING AND DEVELOPMENT ACT 2005*. AN APPLICATION FOR REVIEW MUST BE SUBMITTED IN ACCORDANCE WITH PART XIV OF THE *PLANNING AND DEVELOPMENT ACT* WITHIN 28 DAYS OF THE DATE OF THIS DECISION TO:

THE STATE ADMINISTRATIVE TRIBUNAL
GPO BOX U1991
PERTH WA 6845”

Report Purpose

For Council to consider an application for development approval from CareyMC Pty Ltd to install a new ablution block at the Home Island Primary School.

Relevant Documents

[Available for viewing at the meeting](#)

Plans of the ablution block.

Background

The Commonwealth Department of Infrastructure, Regional Development and Cities have contracted CareyMC to install new ablution blocks at both the Home and West Island schools. This application before Council deals only with the ablution block to be installed at the Home Island Primary School. The ablution block at the District High School on West Island was granted planning approval at the March Ordinary Meeting of Council.

The subject land is held in Trust for the benefit of the Cocos Malay people and is reserved for the purposes of a school.

Currently Council does not have a delegation register in place for statutory planning approvals, meaning each application must be presented to Council for determination.

Comment

The proposed 13.23m long, 4.82m wide and 3.13m high ablution block will be sited to the rear of the existing school and replace an old service shed which is at the end of its serviceability. The new ablution block provides a welcomed upgrade from the current facilities.

The ablution block is adequately setback from current building and the boundaries of the reserve and will be clad with appropriate materials; resulting in no planning concerns for the proposal.

Policy and Legislative Implications

Clause 2.1.2 of the *Shire of Cocos (Keeling) Islands Local Planning Scheme No.1*:

A person or body shall not use or commence or carry out development on land or within a waterway reserved under this Scheme without first applying for and obtaining development approval of the local government. In determining an application for development approval the local government shall have regard to:

- (a) the matters set out in Part 9 of the deemed provisions.*
- (b) the ultimate purpose intended for the reserve.*

Strategic Implications:

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 -2026 Outcome 3.21 Maintain and develop infrastructure in-line with community needs and the Islands environment.

Conclusion

Given there is no relevant planning concerns the officer supports the proposal.

10.4 ADMINISTRATION

10.4.1 AUTHORITY TO ADVERTISE REQUESTS FOR PROPOSAL VIA TENDER FOR DESIGN, SUPPLY AND CONSTRUCTION OF ONE RESIDENTIAL PROPERTY ON HOME ISLAND

Report Information

Date: 16 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Home Island
 Attachments: Nil

Authority / Discretion

Definition

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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

OFFICER RECOMMENDATION – ITEM NO 10.4.1

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.57 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO:

1. AUTHORISE THE CHIEF EXECUTIVE OFFICER TO ADVERTISE FOR REQUEST FOR PROPOSALS FOR THE DESIGN AND CONSTRUCTION OF A RESIDENTIAL PROPERTY ON HOME ISLAND AND DEVELOP THE ASSESSMENT CRITERIA AND PANEL FOR ASSESSING PROPOSALS.

2. FORMALLY PRESENT THE EVALUATION OF THE PROPOSALS TO COUNCIL AS A CONFIDENTIAL ATTACHEMENT AT THE ORDINARY MEETING OF COUNCIL ON 26 JUNE 2019.

Report Purpose

This item progresses a project identified and approved by Council during the 2018/19 Mid-Year Budget Review being the construction of a residential property on one of the seven vacant residential blocks on Home Island. At this stage, a resolution to commence the procurement by advertising for proposals is being requested from Council along with approval of the criteria for assessing proposals.

Relevant Documents

Available for viewing at the meeting

Nil

Background

At the Councillor Workshop in September 2018, the issue of housing was discussed in detail with Councillors. Based on those discussions, an allocation for commencing the procurement process was included in the mid-year review of the budget as adopted by Council at the Ordinary Meeting of Council in February 2019. That allocation has been used to engage WALGA to develop the procurement documentation and to assist with the management of the procurement process.

Comment

The current delegations to the Chief Executive Officer does not include a delegation to all for tenders or to develop criteria, therefore a resolution of Council is required for the CEO to commence with the procurement. The intent is to advertise for proposals for both a 2 bedroom/1 bathroom and a 3 bedroom/1 bathroom residence to be able to assess options that are within capacity to be funded by Council. The criteria proposed to be used are as follows:

Compliance Criteria	Weighting
<p>Tenderer Profile</p> <ul style="list-style-type: none"> i. State the Tenderer’s business structure (i.e. sole trader/partnership/proprietary limited liability company/trustee) and provide all business details, including the Tenderer’s Australian Business Number (ABN), Registered Entity Name and full business address (physical and postal address). ii. Provide details of the Tenderer’s Authorised Person preparing the response to this Request including; full name, position title, postal address, phone number and email address. 	<p>Must provide</p>

<p>Tenderer's Declaration</p> <p>i. By indicating Comply I (The Tenderer's Authorised Person) We (The Tenderer) agree that I am/we are bound by, and will comply with the Conditions of Tender contained in this Request.</p> <p>I/We agree that there will be no cost payable by the Principal towards the preparation or submission of this Tender irrespective of its outcome.</p> <p>By submitting this Response, I the person named as the authorised person, confirm my understanding that by lodging a Tender, in accordance with Part 1 of this Request, I understand no physical signature is required on this Declaration; that by lodging this Tender I am automatically providing an electronic signature for this Declaration in accordance with the <i>Electronic Transactions Act 1999 (CTH)</i> and corresponding state and territory acts.</p>	<p>Must comply</p>
<p>Financial Position</p> <p>i. Does the Tenderer have the ability to pay all debts in full as and when they fall due? (If no, please provide details)</p> <p>ii. Does The Tenderer have any current litigation, claim or judgement as a result of which you may be liable for \$50,000 or more? (If yes, please provide details)</p> <p>iii. Will the Tenderer co-operate with an independent financial assessor during the conduct of financial assessments? (If no please outline reasons why)</p>	<p>Must state cooperation with independent financial credit agency</p>
<p>Conflict of Interest</p> <p>i. Will any actual or potential conflict of interest in the performance of the Tenderers obligations under the Contract exist if awarded the Contract, or are any such conflicts of interest likely to arise during the Contract? If yes, please provide details.</p>	<p>Must declare</p>
<p>Insurance Details</p> <p>i. Does the Tenderer maintain the minimum insurance requirements as detailed in Part 3 of this Request? If Yes, provide evidence of the Tenderers insurance policies that meets the requirements for the following:</p> <ul style="list-style-type: none"> • Public and Products Liability Insurance (20m); • Professional Indemnity Insurance (\$5m); • Workers Compensation Insurance (\$50m). <p>ii. If the Tenderer does not currently meet the minimum insurance requirements, does Tenderer agree to amend its insurance policies to meet these requirements at no additional cost to the Principal prior to award of a Contract?</p>	<p>Must provide & maintain</p> <p>Must agree</p>
<p>Alternative Tenders</p> <p>i. Tenderers are to provide their proposed alternative solution if applicable.</p>	<p>Must provide (if applicable)</p>
<p>Acknowledgement of Addenda</p>	<p>Must acknowledge</p>

<p>i. Does the Tenderer acknowledge receipt of any addendum issued and has allowed for any price adjustments resulting in any issued addendum? If yes, please state how many addenda have been received?</p>	
<p>Contract Conditions</p> <p>i. Does the Tenderer agree to the Conditions as stated in Part 3 of this Request? If no, please complete the attached schedule entitled “RFT 18-03 Departures Table.doc”.</p>	<p>Must comply, or provide departures table</p>
<p>Critical Assumptions</p> <p>i. Tenderers are to specify any assumptions they have made that are critical to the Tender, including assumptions relating to pricing and ability to provide the Requirements in the manner specified in this Request.</p>	<p>Must provide (if applicable)</p>
<p>Licencing Requirements</p> <p>i. Is the Tenderer a registered builder in accordance with Western Australian government requirements? If yes, attach a copy of the registration detailing the holder, registration number and expiry date.</p> <p>ii. Does the Tenderer have the necessary licence requirements to undertake these Works? If yes, provide a copy of the licence detailing the licence holder, licence number and expiry date.</p>	<p>Must provide</p>
<p>Pricing</p> <p>i. Has the Tenderer completed and submitted the Price Schedule in the provided format? The price schedule is available as an attachment in the WALGA Provider Portal</p>	<p>Submitted in Excel format.</p>

Qualitative Criteria	Weighting
<p>Capability and Methodology</p> <p>i) Provide the anticipated project timeline (Gantt Chart or similar) and project methodology highlighting key hold points for all stages of the construction phases of the project, from contract award through to practical completion.</p> <p>ii) Detail how each stage of the project is intended to be performed by the Tenderer to ensure that the project deliverables are met in accordance with the requirements of the Contract.</p>	<p>25%</p>
<p>Organisation Experience</p> <p>i) Provide examples of three (3) recent and relevant projects to demonstrate the Tenderers’ performance in providing construction of similar projects.</p> <p>ii) Provide examples that demonstrate how issues that arose on these projects were rectified to ensure the project was delivered in a quality, timely and cost effective manner.</p> <p>iii) Detail the Tenderers understanding and appreciation of the construction requirements for this project, by describing the key elements to be taken into consideration specifically for this project, including whole of project costing and sustainability factors,</p>	<p>45%</p>

Conclusion

This agenda item commences action on one of Council and the Community's highest priority infrastructure needs. The process recommended, i.e. Request for Proposal rather than a straight tender addresses the complexity and risks associated with this project.

10.4.2 CARETAKER'S DWELLING POLICY

Report Information

Date: 16 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 Location: N/A
 File Ref:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire wide
 Attachments: 10.4.2 Draft Shire of Cocos (Keeling) Islands Caretaker's Dwelling Policy

Authority / Discretion

Definitions

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<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
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<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

OFFICER RECOMMENDATION – ITEM NO 10.4.2

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S.2.7 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI), RESOLVES TO ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS CARETAKER'S DWELLING POLICY.

Report Purpose

To present a draft Caretaker's Dwelling Policy for Council consideration with a recommendation that Council adopts the policy as presented.

Relevant Documents

Available for viewing at the meeting

Nil

Background

Council has dealt with applications for caretaker's dwellings on an as needs basis and made determinations based on a set of criteria that has evolved from precedent and the view of the Council of the day.

Comment

Whilst decision making on an as needs basis has served Council in the past, the view of officers is that a policy will provide more clarity around decision-making and offer transparency to potential applicants.

A policy framework will ensure officers are better positioned to provide potential applicants with advice in the preliminary stages of an application, noting that all applications would be still presented for formal consideration and determination by Council. The policy as presented aims to ensure that the focus for caretaker's dwellings is on supporting economic development outcomes and that the commercial land use is not compromised.

Policy and Legislative Implications

In drafting the policy, officers have been cognisant of the Shire of Cocos (Keeling) Islands Local Planning Scheme No. 1 (LPS1) and the policy elaborates on and put more detail and definitions around the requirements outlined in the LPS1.

Financial Implications

There are no direct financial implications that would arise from adopting this policy.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 -2026 Outcome 4.1.2 Continue to improve organisational planning.

Conclusion

The officer's recommendation is that Council adopts the policy as presented to provide a formal written Council position regarding caretaker's dwellings. It should be noted that all policies are reviewed regularly and presented to Council following each review for further consideration. Therefore any adjustments or refining of the policy will occur as required once the policy is implemented and tested in the working environment.

10.4.3 COCOS (KEELING) ISLANDS MASTERPLAN REPORT

Report Information

Date: 16 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire wide
 Attachments: 10.4.3 Cocos (Keeling) Islands Master Plan Report, March 2019
 10.4.3 Proposed projects list

Authority / Discretion

Definition

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OFFICER RECOMMENDATION – ITEM NO 10.4.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

1. ADOPT THE COCOS (KEELING) ISLANDS MASTER PLAN REPORT, MARCH 2019 AS THE FINAL DRAFT AND GIVE LOCAL PUBLIC NOTICE OF THE MASTER PLAN REPORT SEEKING COMMUNITY SUBMISSIONS ON THE REPORT;
2. CONSIDER ANY PUBLIC SUBMISSIONS AT THE ORDINARY MEETING OF COUNCIL ON 22 MAY 2019;
3. CONGRATULATE THE RDO FOR SECURING \$200,000 IN FEDERAL FUNDING FOR IMPLEMENTATION OF PROJECTS IDENTIFIED IN THE APPROVED COCOS (KEELING)

ISLANDS STRATEGIC PLAN AND NOTIFY THE RDO THAT THE FOLLOWING PROJECTS IDENTIFIED IN BOTH THE RDO CKI STRATEGIC PLAN AND THE MASTER PLAN ARE COUNCIL'S PREFERRED PRIORITIES TO ALLOCATE THE COMBINED FUNDING TOWARDS:

a. SANDY POINT UPGRADES	\$82,350
b. RECYCLING EQUIPMENT HI	\$170,900
c. SHADE OVER CENTRAL PARK PLAYGROUND	\$26,500
d. SHADE OVER HOME ISLAND PLAYGROUND	\$26,500
e. TRANNIES BEACH UPGRADES	\$67,250
f. HOME ISLAND FORESHORE PICNIC AREA	\$26,500
g. FLOORING UNDER CYCLONE SHELTER	\$56,000
h. CYCLONE SHELTER STEPS CINEMA	\$33,500
i. PUBLIC TOILET YACHT CLUB	\$11,500
j. PUMPTRACK CENTRAL PARK	\$58,000
k. SHADE OVER PONDOK ABANG	\$11,500
l. DIRECTION ISLAND UPGRADES	\$29,500

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 6.8 (B) OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

1. MAKE THE FOLLOWING AMENDMENTS TO THE SHIRE OF COCOS (KEELING) ISLANDS 2018/19 BUDGET:

GL NUMBER	JOB NUMBER	DESCRIPTION	AMOUNT
101235		WASTE MANAGEMENT EXPENSES - OTHER	33000
101460	C228	PLANT & EQUIP'MT-WASTE MANAGEMENT	98000
101460	C229	PLANT & EQUIP'MT-WASTE MANAGEMENT	14500
101460	C230	PLANT & EQUIP'MT-WASTE MANAGEMENT	33400
104470	C179	BUILDINGS -OTHER COMMUNITY AMENITIES	11500
104470	C180	BUILDINGS -OTHER COMMUNITY AMENITIES	11500
111470	C184	BUILDINGS - PUBLIC HALLS	56000
111470	C185	BUILDINGS - PUBLIC HALLS	26500
112210	R011	MAINTENANCE - DIRECTION ISLAND	7500
112465	C155	OTHER INFRASTRUCTURE - SWIMMING AREAS	11500
113230	R035	PARKS & RESERVES HOME ISLAND	10000
113230	R017	PARKS & RESERVES HOME ISLAND	6750
113240	R054	PARKS & RESERVES WEST ISLAND	7500
113450	C190	FURNITURE & EQUIP - OTHER SPORT	7000
113450	C192	FURNITURE & EQUIP - OTHER SPORT	5900
113465	C195	OTHER INFRASTRUCTURE - OTHER SPORT	14250
113465	C196	OTHER INFRASTRUCTURE - OTHER SPORT	35000

113465	C197	OTHER INFRASTRUCTURE - OTHER SPORT	58000
113470	C181	BUILDINGS - OTHER SPORT & REC	5500
113470	C182	BUILDINGS - OTHER SPORT & REC	11500
113470	C186	BUILDINGS - OTHER SPORT & REC	27500
113470	C187	BUILDINGS - OTHER SPORT & REC	26500
113470	C188	BUILDINGS - OTHER SPORT & REC	26500
113470	C189	BUILDINGS - OTHER SPORT & REC	17000
113470	C193	BUILDINGS - OTHER SPORT & REC	6700
113470	C194	BUILDINGS - OTHER SPORT & REC	10500
115475	C191	OTHER INFRASTRUCTURE - CULTURE	10000
131470	C183	TOURISM BUILDINGS	10500
082210	P003	YOUTH/COMMUNITY PROJECTS	-400000
113312		GRANTS CAPITAL - OTHER REC & SPORT	-200000

Executive Summary

This item formally brings the Cocos (Keeling) Islands Master Plan Report, March 2019 before Council for consideration and includes a recommendation to progress community priority projects in the 2018/19 budget.

Relevant Documents

Available for viewing at the meeting

Nil

Background

In January 2019, officers commenced a Master Planning process that included robust community engagement. Malcolm MacKay, from MacKay Urban Design was engaged to provide urban design technical expertise and to develop the Master Plan and the Master Plan report. The Master Plan is presented in three parts: general projects across the southern Atoll; projects specifically for Home Island; and projects for West Island. The Report also includes a tool to put some structure to the prioritisation of projects.

The process included a preliminary community workshop (held on Home Island on the 23rd February 2019 with approximately 110 people in attendance); evaluation of the community responses; preparation of draft Master Plan maps and diagrams; preparation of a project prioritisation tool; and two community feedback workshops (held on both Home Island and West Island on the 27th February with attendances of between 20 and 32 people respectively). The draft Master Plan documents and diagrams were then updated in response to the feedback received for inclusion in the draft Report (See attached.)

The preliminary workshop presentations and the project prioritisation tool have been underpinned with a focus on liveability and sustainability. Whilst these two themes should

be important to all communities, they are particularly relevant to an isolated island community.

74 projects were identified across both islands and small focus group was formed to assess the impact of each project using the prioritisation matrix. Shire and Commonwealth Officers, working alongside the Councillors who have been involved with this Master Planning process, also assessed the implementability of each project. See the attached Master Plan Report for the prioritisation matrix.

It should be noted that while some projects may have been listed as very difficult to implement in the current context, these projects have still been captured and will be reviewed on an annual basis to ensure changes to the internal and / or external environment have not altered their implementability ranking.

It should be noted that the delivery of the identified projects are not all the responsibility of the Shire. A number of the projects would need to be delivered by the Commonwealth government or the private sector. However, all of the identified projects have been included because they all form part of the complex jigsaw of infrastructure that makes a liveable and sustainable place.

Furthermore, given the governance structure of the Indian Ocean Territories, it is essential that there is collaboration between the Shire and the various delivery agencies/service providers at Commonwealth level if the community's needs are to be met effectively and efficiently.

This Master Plan document has, therefore, an important role in identifying and sharing what those needs are, so each relevant organisation can consider the community's needs in their forward planning.

The RDO has secured \$200,000 in funding to implement actions arising from the CKI Strategic Plan and Master Plan. This agenda item recommends that Council advises the RDO of the priorities for that funding to combine with the allocation of \$400,000 made by Council at the mid-year budget review giving a total of \$600,000 for implementation and that the Shire becomes the implementing partner to the RDO. In addition to being identified as priorities in the Master Plan, projects recommended in this report for implementation are also aligned to actions in the Shire's Corporate Business Plan and the RDO CKI Strategic Plan.

Policy and Legislative Implications

As this item includes a recommendation for the allocation of funds and hence a budget amendment, an Absolute Majority decision is required as per the *Local Government Act 1995 (WA) (CKI)*.

Financial Implications

As part of the Mid-Year Budget Review carried out in February 2019, Council allocated \$400,000 in funding to implement actions arising from the Master Plan, however as the plan had not been finalised at that time, the funds were not allocated to specific projects. It is also anticipated that the Shire will act as the RDO's implementing partner for the \$200,000 in community funding to deliver projects from the CKI Strategic Plan. This item recommends that \$600,000 (\$400,000 from Council's own budget and \$200,000 from the RDO) is allocated as per project list attached.

Projects for the 2019/20 capex budget and for subsequent budgets will be informed by the Master Plan and workshopped with Council and considered by Council as part of the annual budget process. Therefore, at this stage the only direct financial commitment is the \$400,000 already allocated in the 2018/19 budget and the \$200,000 which is contingent on a formal written agreement with the RDO. No expenditure will be incurred before this agreement is obtained.

Strategic Implications

Shire of Cocos (Keeling) Islands Strategic Community Plan 2016 – 2026:

- Outcome 2.1 Appropriate, well maintained community facilities
- Outcome 1.1 Encourage economic stability for the Islands
- Outcome 3.1 Retain the Islands environment

Conclusion

The officer's recommendation aims to ensure that as many community priorities are implemented as quickly as possible within current budget allocations. It also focusses on engaging with our important funding partners, being the RDO and the Commonwealth, in delivering on community priorities identified in the Master Plan.

10.4.4 SOUTH END PRECINCT COMMERCIAL DEVELOPMENT POLICY (DRAFT)

Report Information

Date: 17 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location:
 Disclosure of Interest: Nil
 Reporting Officer: Chief Executive Officer
 Island: Shire wide
 Attachments: 10.4.4 Draft South End Precinct Commercial Development Policy
 10.4.4 Draft South End Precinct Policy Map

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

OFFICER RECOMMENDATION – ITEM NO 10.4.3

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO S. 2.17 OF THE *LOCAL GOVERNMENT ACT 1995 (WA) (CKI)* RESOLVES TO:

1. ADOPT THE SHIRE OF COCOS (KEELING) ISLANDS SOUTH END PRECINCT COMMERCIAL DEVELOPMENT POLICY
2. REVIEW THE POLICY IN FEBRUARY 2020.

Executive Summary

This report brings the draft South End Precinct Commercial Development Policy before Council for consideration. The officer's recommendation is that the Policy is adopted as presented and reviewed in February 2020 to consider any identified improvements or changes prior to the 2020 trade winds season.

Relevant Documents

Available for viewing at the meeting

Nil

Background

The area at the South End of West Island is a hub for both recreational and commercial water based activities. Tourism numbers have increased over the last few years and as a result there has been more interest from commercial operators to utilise this area.

At the conclusion of the 2018 trade winds season the Shire committed to developing a commercial use framework for the area to ensure any increase in utilisation of the area for commercial purposes is appropriately managed and in line with community expectations. Developing this framework is also an action for the 2018/2019 in the Shire's recently adopted Corporate Business Plan.

Comment

The draft Policy has been discussed at a Councillor workshop so Councillors have had a chance to review the Policy. It was developed with assistance from the Shire's contract planning team from the Shire of Dandaragan.

The draft policy was sent to the stakeholders who participated in the end of trade wind season debrief where the Shire committed to developing the framework for feedback. The Shire received one written response in favour of the policy with no recommended changes.

Verbal feedback was also received from the yacht club who queried if the approvals/licences around mobile food would be required when holding events such as the barefoot ball. They were advised that this policy deals with commercial activities and as such community events such as the barefoot ball run by not for profit organisations would not be impacted by the policy.

Other minor amendments that have been made are as follows:

- 3.2.2 b) – Increase time period from 48 hours to 5 days.

- 3.2.3 - Public liability requirement amended to \$10 million from \$20 million
- 3.10.3 - Reword generator clause to change from “*ensure supervision at all times*” to “*should not be left unattended*”

Policy and Legislative Implications

There are no direct legislative requirements for this policy. The Policy implication is that, should it be adopted, the Policy will be included in the Policy Manual and provide a policy position for management of the South End.

Financial Implications

There are no direct financial implications from adopting this Policy.

Strategic Implications

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/2019 – 2021/2022 ED1.1.1.6
Develop a Commercial Use Framework for South End

Conclusion

The officer’s recommendation is that Council adopts the policy as presented to provide guidance on how the South End is managed. The officer’s recommendation is that, should Council adopt the Policy, that it be reviewed in February 2020 so that any adjustments or refining of the policy can occur after the policy has been tested over one season.

10.4.5 COCOS CV BUDGET AMENDMENT

Report Information

Date: 17 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location:
 Disclosure of Interest: Nil
 Reporting Officer: Deputy Chief Executive Officer
 Island: Shire wide
 Attachments: Nil

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

OFFICER RECOMMENDATION – ITEM NO 10.4.5

THAT COUNCIL, BY ABSOLUTE MAJORITY, PURSUANT TO SECTION 6.8 (B) OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO:

2. MAKE THE FOLLOWING AMENDMENTS TO THE SHIRE OF COCOS (KEELING) ISLANDS 2018/19 BUDGET:

GL NUMBER	JOB NUMBER	DESCRIPTION	AMOUNT
133320		ECONOMIC DEVELOPMENT – FUNDING INC	(50,000)
133230	F042	ECONOMIC DEVELOPMENT FUNDING - EXP	50,000

Report Purpose

To make necessary amendments to the budget after notification of the successful Building Better Regions Fund (BBRF) application for the Cocos CV project.

Relevant Documents

Available for viewing at the meeting

Nil

Background

At the November 2018 Council meeting council resolved the following:

THAT COUNCIL, BY SIMPLE MAJORITY, PURSUANT TO SECTION 3.18 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) RESOLVES TO:

1. *LODGE AN APPLICATION FOR FUNDING VIA THE BUILDING BETTER REGIONS FUND FOR \$50,000 TO DEVELOP A COCOS CV;*
2. *COMMIT AN IN-KIND CONTRIBUTION FOR PROJECT MANAGEMENT AND SUPPORT; AND*
3. *PROVIDE FORMAL ACKNOWLEDGEMENT AND THANKS TO THE REGIONAL DEVELOPMENT ORGANISATION FOR THEIR FINANCIAL CONTRIBUTION OF \$12,500 TOWARDS THIS APPLICATION.*

On the 8th of March the Shire was advised of its successful application for BBRF grant funding for the Cocos CV project. The Shire signed the letter of agreement for the funding on the 30th of March 2019.

Comment

A budget amendment is now required to recognise the funding that the Shire will receive from the BBRF grant, the contribution that has been committed from the RDO and the matching expenditure required for the project.

Policy and Legislative Implications

Local Government (Financial Management) Regulations 1996

Financial Implications

The full \$50,000 cost of the Cocos CV project is offset by \$37,500 from the BBRF grant and \$12,500 committed contribution from the RDO.

Strategic Implications

Shire of Cocos (Keeling) Islands Corporate Business Plan 2018/2019 – 2021/2022 ED1.1.5.4
Develop, promote and maintain a Cocos Capacity and Capability Prospectus (Cocos CV).

Conclusion

That council makes budget amendments as outlined in the report.

**10.4.6 PROPOSED PUBLIC PLACES AND LOCAL GOVERNMENT PROPERTY LOCAL LAW –
AREA OF APPLICATION**

Report Information

Date: 18 April 2019
 Applicant: Shire of Cocos (Keeling) Islands
 File Ref:
 Location: N/A
 Disclosure of Interest: Nil
 Reporting Officer: Niel Mitchell, Consultant
 Chief Executive Officer
 Island: Shire Wide
 Attachments: 10.4.6 Map of proposed area of application of the local law

Authority / Discretion

Definition

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes and policies. Review when Council reviews decisions made by officers.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application / matter that directly affects a person's right and interest. The judicial character arises from the obligations to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licenses, applications for other permits / licenses.</i>
<input type="checkbox"/>	Information	<i>Includes items provides to Council for information purposes only that do not require a decision of Council (i.e. – for noting).</i>

OFFICER RECOMMENDATION – ITEM NO 10.4.6

THAT COUNCIL:

- 1. BY 1/3 MAJORITY, PURSANT TO S. 5.25 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) AND REG. 10 OF THE LOCAL GOVERNMENT ADMINISTRATION REGULATIONS 1996 RESOLVES TO CONSIDER TO REVOKE ITEMS 1 TO 4 OF COUNCIL RESOLUTION 1117/08 MADE ON 8 NOVEMBER 2017 BEING AS FOLLOWS:**

- 1. That the Minister for Territories be REQUESTED to –**

- a) *provide details of the legal boundary of the Shire; and*
 - b) *define the legal boundary of the Shire as the area shown as the Shire boundary and Scheme area in the maps of the Local Planning Scheme published in the Territory of Cocos (Keeling) Islands Gazette of 30 July 2007 (Attachments 4a and 4b); and*
2. *That the Minister for Territories be requested to enter the decision of Recommendation 1 above into the Federal Register of Legislation as a Notifiable Instrument.*
 3. *That in accordance with –*
 - *the Cocos (Keeling) Islands Act 1955 (Commonwealth) section 8G; and*
 - *the Local Government Act 1995 (WA) (CKI) section 3.6,*
the Minister for Territories be requested to extend the jurisdiction of the Shire to administer local laws, to –
 - a) *the whole of the lagoon area as shown in the maps of the Local Planning Scheme (Attachment 4) if Recommendation 2 above is not approved; and*
 - b) *200 metres from the high water mark of all islands, in any case; and*
 4. *That the Minister for Territories be requested to enter the decision of Recommendation 3 above into the Federal Register of Legislation as a Notifiable Instrument.*
- 2. BY ABSOLUTE MAJORITY, PURSANT TO S. 5.25 OF THE LOCAL GOVERNMENT ACT 1995 (WA) (CKI) AND REG. 10 OF THE LOCAL GOVERNMENT ADMINISTRATION REGULATIONS 1996 RESOLVES TO REVOKE ITEMS 1 TO 4 OF COUNCIL RESOLUTION 1117/08 MADE ON 8 NOVEMBER 2017 BEING AS FOLLOWS:**
1. *That the Minister for Territories be REQUESTED to –*
 - a) *provide details of the legal boundary of the Shire; and*
 - b) *define the legal boundary of the Shire as the area shown as the Shire boundary and Scheme area in the maps of the Local Planning Scheme published in the Territory of Cocos (Keeling) Islands Gazette of 30 July 2007 (Attachments 4a and 4b); and*
 2. *That the Minister for Territories be requested to enter the decision of Recommendation 1 above into the Federal Register of Legislation as a Notifiable Instrument.*
 3. *That in accordance with –*
 - *the Cocos (Keeling) Islands Act 1955 (Commonwealth) section 8G; and*
 - *the Local Government Act 1995 (WA) (CKI) section 3.6,*
the Minister for Territories be requested to extend the jurisdiction of the Shire to administer local laws, to –
 - a) *the whole of the lagoon area as shown in the maps of the Local Planning Scheme (Attachment 4) if Recommendation 2 above is not approved; and*
-

- b) 200 metres from the high water mark of all islands, in any case; and
4. That the Minister for Territories be requested to enter the decision of Recommendation 3 above into the Federal Register of Legislation as a Notifiable Instrument.
3. BY SIMPLE MAJORITY, PURSUANT TO S. 3.6 OF THE LOCAL GOVERNMENT ACT 1995(WA)(CKI) AND S. 8G OF COCOS KEELING ISLAND ACT 1995 RESOLVES THAT THE ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES BE REQUESTED TO APPROVE THE OPERATION OF SHIRE OF COCOS (KEELING) ISLANDS LOCAL LAWS –
- (a) FOR GREATER OF –
- (i) THE WHOLE OF THE SHADED AREA AS SHOWN IN THE ATTACHED MAP; AND
- (ii) A DISTANCE OF 200 METRES SEAWARDS FROM THE HIGH TIDE MARK OF LAND ADJOINING THE SHADED AREA AS SHOWN IN THE ATTACHED MAP;
- (b) EXCLUDING ANY LANDS OR WATERS UNDER THE ADMINISTRATION OF THE COCOS (KEELING) ISLANDS PORT AUTHORITY, UNLESS BY WRITTEN AGREEMENT OF THE PORT AUTHORITY; AND
- (c) THAT ASSISTANT MINISTER FOR REGIONAL DEVELOPMENT AND TERRITORIES BE REQUESTED TO ENTER ANY AREA, APPROVED IN ACCORDANCE WITH RECOMMENDATION 3(a) and 3(b) ABOVE, INTO THE FEDERAL REGISTER OF LEGISLATION AS A NOTIFIABLE INSTRUMENT.

Report Purpose

The purpose of this report is to –

- a) revoke a previous Resolution 1117/08 made 8 November 2017 with regards to the area under the control of the Shire; and
- b) seek the approval of the Minister for Territories to make local laws effective beyond the land areas of Cocos (Keeling) Islands.

Background

At the Council meeting held on 8 November 2017, Resolution 1117/08 states –

1. That the Minister for Territories be REQUESTED to –
- a) provide details of the legal boundary of the Shire; and
- b) define the legal boundary of the Shire as the area shown as the Shire boundary and Scheme area in the maps of the Local Planning Scheme published in the Territory of Cocos (Keeling) Islands Gazette of 30 July 2007 (Attachments 4a and 4b); and
2. That the Minister for Territories be requested to enter the decision of Recommendation 1 above into the Federal Register of Legislation as a Notifiable Instrument.
3. That in accordance with –
- the Cocos (Keeling) Islands Act 1955 (Commonwealth) section 8G; and
 - the Local Government Act 1995 (WA) (CKI) section 3.6,
- the Minister for Territories be requested to extend the jurisdiction of the Shire to administer local laws, to –
- a) the whole of the lagoon area as shown in the maps of the Local Planning Scheme (Attachment 4) if Recommendation 2 above is not approved; and
- b) 200 metres from the high water mark of all islands, in any case; and

4. That the Minister for Territories be requested to enter the decision of Recommendation 3 above into the Federal Register of Legislation as a Notifiable Instrument.
5. That Council adopt the draft policy in Attachment 1 regarding -
 - a) publication of all Shire legislative documents as Notifiable Instruments in the Federal Register of Legislation, as the official record of all legislative documents;
 - b) secondary publication of the documents on the Shire of Cocos Keeling Islands' website for the purposes of access and convenience of reference; and
 - c) the WA Government Gazette and the Indian Ocean Territories Government Gazette are not to be used.

Further discussions with Council and a working group formed to look into this matter, have resulted in a view that the proposed area as determined on 8 November, was not desired and that it should be restricted to generally the lagoon side of the islands and not more than 200 metres from high tide mark, in accordance with the map prepared by the Cocos (Keeling) Islands Port Authority. It is considered that items 1 to 4 of Resolution 1117/08 are no longer appropriate and should be revoked, as provided for by the *Local Government (Administration) Regulations 1996 (WA)(CKI)*.

Comment

Revocation of a previous resolution requires the support of at least 1/3rd of councillors in order to be considered (3 councillors), that is, a mover, seconder and supporter, and must be carried by an absolute majority (4 councillors).

In order to give effect to the request to apply local laws beyond the land area of the islands, the WA Local Government Act s.3.6 requires the approval of the Minister.

In accordance with the Cocos (Keeling) Islands Act 1955 s.8G –

Vesting of powers in the Minister

(1) If a power is vested in:

(a) a Minister of Western Australia; or

(b) the Governor of Western Australia; or

(c) the Governor-in-Council of Western Australia;

by a Western Australian law in force in the Territory under section 8A, the power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a), (b) or (c).

Advice has been received that the Assistant Minister for Regional Development and Territories is the responsible Minister. Therefore, approval of the Assistant Minister is needed in order to extend the application of the proposed local law from the shoreline.

It is suggested that the approval requested should not be specific to the proposed Public Places and Local Government Property Local Law, but be able to be applied to other local laws if appropriate. The likelihood of this being necessary is expected to be low, but would avoid the need to seek additional future approvals if considered necessary by Council. As each local

law should be submitted to the Assistant Minister and to the Administrator as a part of the consultation process required for adoption, there is opportunity at that time for the need to be considered and any concern raised.

The Local Government Act (WA) also requires that the inclusion of any approved area into a local law is to be published in the WA Government Gazette. However for the Shire, this means it must be entered into the Federal Register of Legislation as a Notifiable Instrument in accordance with the Legislation Act (2003) (Commonwealth) s.11 –

(4) If an Act or an instrument requires an instrument (other than a legislative instrument), or the particulars of the instrument's making, to be published or notified in the Gazette or in any other way, then, unless the contrary intention appears, the requirement is taken to be satisfied if the instrument is registered as a notifiable instrument.

Policy and Legislative Implications

Legislation Act 2003 (Commonwealth) –

- *s.11 – Definition of notifiable instruments*

Cocos (Keeling) Islands Act 1995 (Commonwealth) –

- *s.8G(1) – where reference in WA Legislation to Governor, Minister etc. the action is to be directed to the Minister for Territories.*

Local Government Act 1995 (WA) (CKI) –

3.6. Places outside district

- (1) If the Governor's approval has been first obtained, a local government may make a local law under this Act that applies outside its district.*
- (2) A local government cannot, under subsection (1), make a local law that applies to –
(a) a part of the State that is in the district of another local government; or
(b) a part of the State to which a local law made by another local government concerning the same subject matter applies under this section.*
- (3) The Governor may revoke any approval given under subsection (1) and, after that revocation, a local law made under the approval ceases to apply to the part of the State for which the approval was given.*
- (4) The Minister is to cause notice of any revocation under subsection (3) to be published in the Gazette.*

Local Government (Administration) Regulations 1996 (CKI) –

- *r.10 – Revoking or changing decisions*
 - (1) Must be supported by at least 1/3 of councillors (ie: 3)*
 - (2) An absolute majority is required for the decision to be revoked*

Financial Implications

Nil

Strategic Implications

Compliance with legislative requirements and development of appropriate controls for the management of public places and local government property.

Conclusion

In accordance with the Shire of Cocos (Keeling) Islands – Strategic Community Plan 2016 - 2026, the Shire aims to assist the community by providing information to assist them to work with the unique legislative arrangements of the Islands. This includes development of local laws that appropriately reflect the needs of the community.

10.5 MINUTES TO BE RECEIVED

11. ELECTED MEMBERS MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12. MOTIONS WITHOUT NOTICE WITH LEAVE OF COUNCIL

13. MATTERS BEHIND CLOSED DOORS

A report is confidential under Section 5.23 (2) of the Local Government Act 1995.

- (2) If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following—
- (a) a matter affecting an employee or employees; and
 - (b) the personal affairs of any person; and
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial or financial affairs of a person,

14. CLOSURE OF BUSINESS